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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,311	02/12/2004	Helmut Scholz	71237	7407

23872 7590 09/20/2005

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EXAMINER
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CHOI, STEPHEN

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/779,311

Applicant(s)

SCHOLZ, HELMUT

Examiner

Stephen Choi

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-16 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☒ All b) ☐ Some \* c) ☐ None of:  
 1. ☒ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Newly submitted claims 17-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the invention of claims 17-20 are distinct from the invention originally claimed and related as subcombinations useable together in a single combination since the invention originally claimed does not require a pivotally mounted saw head on a base plate, a disk rotatably mounted on the base plate about axis perpendicular to a base plane of the base plate.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edler (US 3,302,669) in view of Margolien (US 3,342,107).

Edler discloses the invention substantially as claimed including a saw head tiltable around a horizontal tilt axis and carrying a saw blade (300), a bottom plate

(20), a disk (30), and an adjusting device (at 150, 152). Edler fails to disclose a clamping device. Margolien discloses a clamping device (41) for clamping a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a clamping device as taught by Margolien on the device of Edler in order to provide means for clamping an elongated tubular stock for cutting. Regarding claim 4, an operating part (164 of Edler). Regarding claims 5-6, the modified device of Edler fails to disclose a threaded spindle.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a threaded spindle for linearly displacing the saw head as taught by applicant's admitted prior art on the modified device of Edler for positioning the saw head. It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant failed to traverse the examiner's assertion of official notice.

Snover shows one example of such a threaded spindle. Regarding claims 7-8, a pair of clamping jaws (41b, 41c of Margolien). Regarding claims 9-10, a center line of the clamping device mounted on the device of Edler in lieu of an element 50 intersects a vertical rotational axis of the disk. Regarding claim 11, an adjusting member (41a). Regarding claim 12, an acute angle (see Figure 1 of Margolien). Regarding claim 14, col. 4, lines 55-59. Regarding claim 15, the element 41b and 41c of Margolien have at least one offset portion for clamping a pipe.

4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edler (US 3,302,669) in view of Margolien (US 3,342,107) as applied to claim 7 above, and further in view of Chen (US 5,862,731).

The modified device of Edler discloses the invention substantially as claimed except for a guide rod with a stop piece wherein the guide rod is fastened to at least one of the clamping jaws. Chen discloses a guide rod (33) with stop piece (35) wherein the guide rod is fastened to a clamping jaw. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a guide rod with a stop piece as taught by Chen on the modified device of Edler in order to provide means for positioning the workpiece at a desired location.

#### ***Response to Arguments***

5. Applicant's arguments filed 12 July 2005 have been fully considered but they are not persuasive.

Applicant contends that Edler and Margolien do not teach the adjusting device for moving the saw head in a direction along an axis of the saw blade.

The examiner respectfully disagrees. The saw head of Edler is rotatable 90 degrees for performing a rip cutting operation. In such a position, the saw blade is parallel with axis Y-Y in such a way the saw head is linearly and horizontally positionable in a direction along an axis of the saw blade. Furthermore, the examiner's rejection relies on the teaching of Margolien on the use of a clamping device.

#### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC  
16 September 2005

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**